

REMARKS

Claims 21-40 were originally filed in the present application. Claims 21-40 are pending in the present application. Claims 21-40 were rejected in the November 30, 2005 final Office Action.

No claims have been allowed. Claims 21-40 remain in the present application.

This paper is filed with a Request for Continued Examination (RCE) and a terminal disclaimer over U.S. Patent No. 6,625,134 (the '134 Patent).

Reconsideration of the claims is respectfully requested.

Double Patenting

In Sections 1 and 2 of the November 30, 2005 Office Action, the Examiner rejected Claims 21-40 as unpatentable under the judicially created doctrine of double patenting over Claims 1-20 of the '134 Patent. While Applicants continue to respectfully disagree with the Examiner's analysis, the Applicants have herewith filed a terminal disclaimer over the '134 Patent. As such, the double-patenting rejection is believed to be obviated, and this rejection is traversed.

Art Rejections

In Sections 4 and 5 of the November 30, 2005 Office Action, the Examiner rejected Claims 21-27, 29-35 and 37-39 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,108,547 to *Yamashita, et al.* (the "Yamashita reference"). Applicants respectfully disagree.

The Yamashita reference discloses receiving an access request from a first mobile station and performing soft handoff. The Yamashita reference does disclose a channel allocator capable of receiving said access request notification and, in response thereto:

- (1) terminating a first communication link between said first base transceiver station and a first selected one of said plurality of mobile stations, wherein said first selected mobile station maintains at least a second communication link with at least a second base transceiver station of said wireless network, and
- (2) allocating a first data traffic channel associated with said *terminated* first communication link to establish a communication link with said *accessing mobile station*, as required by Claims 21 and 29.

In other words, unlike the Yamashita reference, Claims 21 and 29 essentially claim a channel allocator that receives a notification of a first mobile station attempting to access a base station. In response to the access attempt notification, Claims 21 and 29 require that the channel allocator tears down an existing handoff channel associated with a second mobile station and re-allocates it to the *new first mobile station* that is attempting to access the base station. The channel allocator is able to tear down the *existing* handoff channel because the second mobile station in handoff state still has at least one other handoff channel that it can use.

In this way, when the claimed channel allocator receives the access request notification, even if there are no unused channels, it can terminate an existing handoff channel, and re-allocate that channel to the new mobile station. This is completely different than the system disclosed by

Yamashita, in which, when a soft handoff request is received, “[i]f there are no unused channels available, a reject response is returned in response to the soft handoff request (step 1204), and the process is terminated” (col. 6, lines 36-39).

As the Examiner notes in both the final Office Action and his Advisory Action, Yamashita discloses that soft handoff mode and a channel are terminated “when the quality of the channel with the base transceiver station 12₁ has deteriorated far enough”. As is clear, the channel is terminated in response to quality deterioration, not in response to receiving an access request notification, as claimed.

Therefore, while the Examiner is correct that Yamashita performs some basic processes such as receiving requests, terminating connections, etc., Yamashita does not perform these steps in accordance with the claims. Yamashita can terminate a soft-handoff connection when the signal quality deteriorates, but cannot accommodate a new access request when all channels are already allocated. The claimed system, however, can accommodate the new access request by terminating a soft-handoff connection in response to receiving the access request notification, and allocating the channel associated with the terminated connection to the new mobile station. This claimed feature is not taught or suggested at all by Yamashita.

Claims 21 and 29 are thus allowable. Moreover, Claims 22-27 and 30-35, which depend from Claims 21 and 29, respectively, are also allowable. Applicants therefore request favorable reconsideration and allowance of Claims 21-27 and 29-35.

If the Examiner intends to maintain this rejection, he is cordially requested to telephone the undersigned attorney to discuss the matter before issuing a further rejection.

Similarly, with respect to Claim 37, the Yamashita reference fails to disclose a method for allocating the plurality of data traffic channels comprising: in response to the access request message detection, terminating a first communication link between the first base transceiver station and a first selected one of the plurality of mobile stations, wherein the first selected mobile station maintains at least a second communication link with at least a second base transceiver station; and allocating a first data traffic channel associated with the terminated first communication link to establish a communication link with the accessing mobile station, as required by Claim 37. Thus, unlike the Yamashita reference, Claim 37 essentially claims a method in which a channel allocator receives a notification that a first mobile station is attempting to access a base station, the channel allocator tears down an existing handoff channel associated with a *second mobile station* and re-allocates it to the *new first mobile station* attempting to access the base station. The channel allocator is able to tear down the existing handoff channel because the second mobile station in handoff state still has at least one other handoff channel that it can use. Claim 37 and its dependents, Claims 38-40, are thus allowable. Applicants therefore request favorable reconsideration and allowance of Claims 37-40.

In Sections 6 and 7 of the November 30, 2005 Office Action, the Examiner rejected Claims 28, 36 and 40 under 35 U.S.C. §103(a) as being unpatentable over the Yamashita reference in view of U.S. Patent No. 5,287,544 to *Menich, et al.* (the "Menich reference"). Applicants respectfully disagree, for the reasons discussed above with regard to Yamashita. Those features not taught or

suggested by Yamashita are similarly not taught or suggested by Menich, alone or in combination with Yamashita.

Claim 28 ultimately depends from allowable Claim 21 and therefore is also allowable. Moreover, the Yamashita reference, either alone or taken in combination with the Menich reference, does not disclose or make obvious all the necessary elements as required by Claim 28 and, ultimately, Claim 21. Similarly, Claim 36 ultimately depends from allowable Claim 29 and Claim 40 ultimately depends from allowable Claim 37. Claims 36 and 40 are thus also allowable. Applicants therefore respectfully request favorable reconsideration and withdrawal of the rejection to Claim 40. Applicants thus respectfully request favorable reconsideration and withdrawal of the rejection to Claims 36 and 40.

SUMMARY

For the reasons given above, the Applicants respectfully request reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.

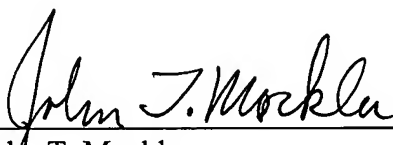
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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